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ATTORNEYS FOR DEFENDANTS

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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

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JOSHUA CHATWIN,

Plaintiff,

v.

DRAPER CITY; OFFICER J. PATTERSON,  
in his individual and official capacity;  
OFFICER DAVID HARRIS, in his individual  
and official capacity; OFFICER HEATHER  
BAUGH, in her individual and official  
capacity; and JOHN DOES 1-10,

Defendants.

**DEFENDANTS' PRETRIAL  
DISCLOSURES and OBJECTIONS TO  
PLAINTIFF'S PRETRIAL  
DISCLOSURES**

Civil No. 2:14-cv-00375  
Judge Dale A. Kimball

Pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure, Defendants Draper City, Officer Patterson, Officer Harris, and Officer Baugh (collectively, "Defendants") hereby submit their Pretrial Disclosures and their Objections to Plaintiff's Pretrial Disclosures. Based upon information currently available, Defendants disclose the following:

**WITNESSES**

Defendants expect to call the following witnesses:

1. Joshua Patterson
2. Sgt. David Harris
3. Heather Baugh
4. Deputy Chief John Eining
5. Ken Wallentine
6. Christopher Lawrence
7. Alan Goldman, M.D.

Defendants may call the following witnesses:

1. John E. Butler, M.D.
2. Janessa Huff
3. Juanita A. Gonzales
4. Steve Merrin
5. Sgt. Kurt Imig
6. Officer Todd Crane
7. Officer J. Barnes
8. Officer Clinton Fackrell
9. Officer Chad Carpetner
10. Captain Jason Kamp
11. Heathyr Best

12. Mike Washburn
13. Chris Middlemiss
14. Tiffany Berardi
15. Tiffany Wilson, GM, or other Manager at Perry Brothers Honda World
16. Manager at Guadalahonky's & Co.
17. Manager at Fast PC Solutions, LLC
18. Manager at Laser Stop, LLC
19. Manager at Rock Creek Pizza
20. Manager at O'Curranee, Inc.
21. Manager at Z'tejas
22. Manager at Educators Mutual Insurance
23. Manager at Lube Management Corp.
24. Manager at Brightstar Wireless, Inc.
25. Manager at Slaymaker Group/Wingers Diner
26. Manager at Convergys Corp.
27. Managr at Larry Miller Subaru
28. Manager at Spirit Wireless
29. Manager at American Satellite Co.
30. Manager at Discount Tire
31. Records/Evidence Custodian, Draper City
32. Records Custodian for any other exhibits

### **EXHIBITS**

Defendants expect to use the following exhibits:

1. DUI Report Form, DRAPER-CHT-00064-67
2. Citation, DRAPER-CHT-00068
3. Draper City Police Report, DRAPER-CHT-00069-86
4. Field Training Manual, DRAPER-CHT-0668-688
5. Draper City Police Report, DRAPER-CHT-4060-4094
6. Expert reports of Ken Wallentine
7. Rebuttal reports of Ken Wallentine
8. Expert report of Chris Lawrence
9. Rebuttal report of Alan Goldman

Defendants may use the following exhibits:

1. Transcript from Preliminary Hearing, DRAPER-CHT-00001-63
2. Search Warrant, DRAPER-CHT-00087-88
3. Blood Test Lab Results, DRAPER-CHT-00089
4. 10/29/2009 Assorted Draper City Policies, DRAPER-CHT-00090-155
5. 2011 Monthly Training Calendar, DRAPER-CHT-0156-159
6. 2011 Defensive Tactic Dept. Training Outline, DRAPER-CHT-0160-165
7. April 2011 Defensive Tactic Dept. Training, DRAPER-CHT-0166-167
8. Draper Police 2012 Yearly Training, DRAPER-CHT-0168-170
9. June 2012 Firearms Agenda, DRAPER-CHT-0171

10. November 2012 Defensive Tactics Dept. Training, DRAPER-CHT-0175-179
11. Draper City Use of Force Policy, DRAPER-CHT-0180-192
12. November 2012 Defensive Tactics Dept. Training Outline, DRAPER-CHT-0193-197
13. November 2012 Defensive Tactics Dept. Training Outline, DRAPER-CHT-198-202
14. Draper City Police Firearms Spreadsheet, DRAPER-CHT-201-205
15. 2013 Draper City Dept. Yearly Training, DRAPER-CHT-206-208
16. 1/15/2013 Draper City Police Training Roster, DRAPER-CHT-209
17. November 2012 Defensive Tactics Dept. Training, DRAPER-CHT-0213-217
18. 6/18/2013 Draper City Police Firearms, DRAPER-CHT-0218
19. 2/12/2013 Draper City Police Firearms, DRAPER-CHT-0220-223
20. Draper PD Defensive Tactics Training Outline, DRAPER-CHT-0254-260
21. 4/21/2015 Draper PD Training Roster – Legal Update, DRAPER-CHT-0262
22. 2014 Draper PD Yearly Training, DRAPER-CHT-0305-307
23. 2015 Draper PD Yearly Training, DRAPER-CHT-308-309
24. 5/5/2009 Draper PD Defensive Tactics, DRAPER-CHT-0412
25. Confrontation Management: The 10 Commandments of Officer Survival, DRAPER-CHT-0413-414
26. 12/11/2012 Draper City Police Training Roster First Aid/CPR, DRAPER-CHT-0599
27. 12/18/2012 Draper City Police Training Roster First Aid/CPR, DRAPER-CHT-0600
28. Draper PD 2012 Yearly Training Record, DRAPER-CHT-0601-606
29. Draper PD 2014 Yearly Training Record, DRAPER-CHT-0607-609

30. Citizen Complaint Investigation regarding Officer Patterson, DRAPER-CHT-0610-616
31. Citizen Complaint Investigation regarding Officer Patterson, DRAPER-CHT-0617-620
32. January 2014 Training Rosters, DRAPER-CHT-0694-701
33. December 2012 Training Rosters, DRAPER-CHT-0713-714
34. Unified State Lab Bureau of Forensic Toxicology blood test, DRAPER-CHT-4095
35. Charging Information, DRAPER-CHT-4096-4099
36. Arrest Warrant, DRAPER-CHT-4100-4101
37. Witness Statement Heathyr Best, DRAPER-CHT-4102
38. Witness Statement Jason Kamp, DRAPER-CHT-4103
39. Forensic Toxicology Statement, DRAPER-CHT-4104
40. Witness Statement Mike Washburn, DRAPER-CHT-4105
41. Witness Statement Chris Middlemiss, DRAPER-CHT-4106
42. Witness Statement Janessa Huff, DRAPER-CHT-4107
43. Witness Statement Mehdi Mahmoudi, DRAPER-CHT-4108
44. Witness Statement Kathy Torrence, DRAPER-CHT-4109
45. Witness Statement Heidi Merrin, DRAPER-CHT-4110
46. Witness Statement Jason Scott, DRAPER-CHT-4111
47. Witness Statement Steve Merrin, DRAPER-CHT-4112
48. DPD Training Assessment for Sworn Staff, DRAPER-CHT-4115-4123
49. DPD Training Assessment Non-Sworn Staff, DRAPER-CHT-4124-4132
50. DPD Training Assessment for Specialty Assignments, DRAPER-CHT-4133-4146

51. 2015 Employee Training Assessment and Career Path Plan, DRAPER-CHT-4147-4154
52. Photograph, DRAPER-CHT-4155
53. Photographs, DRAPER-CHT-4156
54. Photographs, DRAPER-CHT-4157
55. Photographs, DRAPER-CHT-4158
56. Photographs, DRAPER-CHT-4159
57. Photographs, DRAPER-CHT-4160
58. Photographs, DRAPER-CHT-4161
59. Photograph, DRAPER-CHT-4162
60. Photographs, DRAPER-CHT-4163
61. Photographs, DRAPER-CHT-4164
62. Photographs, DRAPER-CHT-4165
63. Interoffice Memo regarding Officer Patterson, DRAPER-CHT-4167-4168
64. Letter of Commendation regarding Officer Patterson, DRAPER-CHT-4169-4171
65. 2013 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4179-4182
66. 2011 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4185-4188
67. 2010 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4190-4193

- 68. Sept. 2008 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4195
- 69. 2009 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4196-4199
- 70. May 2008 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4202-4203
- 71. June 2008 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4204-4216
- 72. Dec. 2007 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4218
- 73. June 2007 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4220
- 74. Oct. 2007 Draper City Police Dept. Evaluation Report, DRAPER-CHT-4222
- 75. Oct. 2014 Draper City Employee Performance Appraisal, DRAPER-CHT-4223-4226
- 76. Oct. 2012 Draper City Employee Performance Appraisal, DRAPER-CHT-4227-4230
- 77. Dec. 2007 Draper City Employee Performance Appraisal, DRAPER-CHT-4231
- 78. August 2014 Letter of Commendation, Heather Baugh, DRAPER-CHT-4232
- 79. March 2013 Letter of Commendation, Heather Baugh, DRAPER-CHT-4233
- 80. February 2012 Letter of Commendation, Heather Baugh, DRAPER-CHT-4234-4236
- 81. Acknowledgement of Draper City PD policy manual, DRAPER-CHT-4257



82. 3/8/2013 Supervisor Training Certificate of Completion, David Harris, DRAPER-CHT-4643
83. 12/17/13 Letter of Commendation to Sgt. Harris, DRAPER-CHT-4649
84. 5/8/07 Letter of Commendation Officer Harris, DRAPER-CHT-4642-4652
85. 3/13/07 Letter of Commendation Officer Harris, DRAPER-CHT-4653-4655
86. Draper City PD Policy Manual Acknowledgement Form, Harris, DRAPER-CHT-4676
87. 10/28/14 Draper City Employee Performance Appraisal/Review, Harris, DRAPER-CHT-4690-4693
88. 11/21/13 Draper City Employee Performance Appraisal/Review, Harris, DRAPER-CHT-4695-4698
89. 6/14/13 Draper City Employee Performance Appraisal/Review, Harris, DRAPER-CHT-4701
90. 10/26/2012 Draper City Employee Performance Appraisal/Review, Harris, DRAPER-CHT-4703-4706
91. 10/21/2011 Draper City Employee Performance Appraisal, Harris, DRAPER-CHT-4714-4717
92. 11/1/10 Draper City Employee Performance Appraisal, Harris, DRAPER-CHT-4722-4726
93. 9/1/08 Employee Performance Evaluation, Harris, DRAPER-CHT-4727
94. 2/13/09 Employee Performance Evaluation, Harris, DRAPER-CHT-4728-4731
95. 4/14/08 Employee Performance Evaluation, Harris, DRAPER-CHT-4735-4736

- 96. 4/19/08 Draper City Employee Evaluation, Harris, DRAPER-CHT-4737-4749
- 97. 7/19/08 Employee Performance Evaluation, Harris, DRAPER-CHT-4751-4752
- 98. 5/15/07 Employee Performance Evaluation, DRAPER-CHT-4758
- 99. Photograph, DRAPER-CHT-4764
- 100. Photograph, DRAPER-CHT-4765
- 101. Photograph, DRAPER-CHT-4766
- 102. Photograph, DRAPER-CHT-4767
- 103. Photograph, DRAPER-CHT-4767
- 104. Photograph, DRAPER-CHT-4768
- 105. Photograph, DRAPER-CHT-4769
- 106. Photograph, DRAPER-CHT-4770
- 107. Case Dockets regarding Plaintiff, DRAPER-CHT-4771-5002
- 108. 4/21/2009 Police Report regarding Josh Chatwin, DRAPER-CHT-5003
- 109. 7/8/10 Police Report regarding Josh Chatwin, DRAPER-CHT-5004-5006
- 110. 4/8/11 Police Report regarding Kathy Torrence, DRAPER-CHT-5007-5008
- 111. 8/20/11 Police Report regarding Kathy Torrence, DRAPER-CHT-5009-5010
- 112. 9/9/11 Police Reports regarding Kathy Torrence, DRAPER-CHT-5011-5014
- 113. 9/18/11 Police Report regarding Kathy Torrence, DRAPER-CHT-5015-5016
- 114. 10/8/11 Police Report regarding Kathy Torrence, DRAPER-CHT-5017-5018
- 115. 7/3/12 Police Report regarding Josh Chatwin, DRAPER-CHT-5019
- 116. 1/24/13 Police Report regarding Jason Scott, DRAPER-CHT-5022-5023

- 117. 2/23/2013 Police Report regarding Josh Chatwin, DRAPER-CHT-5024
- 118. 3/7/2013 Police Report regarding Kathy Torrence, DRAPER-CHT-5025
- 119. 7/31/2013 Police Report regarding Josh Chatwin, DRAPER-CHT-5026-5027
- 120. 1/11/14 Police Report regarding Josh Chatwin, DRAPER-CHT-5028-5029
- 121. 5/26/15 Police Report regarding Josh Chatwin, DRAPER-CHT-5032-5034
- 122. 10/3/04 Police Report regarding Josh Chatwin, DRAPER-CHT-5040-5045
- 123. 4/22/05 Police Report regarding Josh Chatwin, DRAPER-CHT-5048-5049
- 124. 4/9/06 Police Report Regarding Josh Chatwin, DRAPER-CHT-5054-5055
- 125. 10/21/06 Police Report Regarding Kathy Torrence, DRAPER-CHT-5056-5058
- 126. 6/25/07 Police Report regarding Kathy Torrence, DRAPER-CHT-5059-5060
- 127. 7/16/07 Police Report regarding Josh Chatwin, DRAPER-CHT-5061-5064
- 128. 4/9/09 Police Report regarding Josh Chatwin, DRAPER-CHT-5065-5067
- 129. Josh Chatwin Employment Records, Convergys, DRAPER-CHT-5068-5075
- 130. Josh Chatwin Employment Records, Honda World, DRAPER-CHT-5076-5080
- 131. Josh Chatwin Employment Records, Discount Tire, DRAPER-CHT-5081-5114
- 132. Josh Chatwin Employment Records, Guadalahonky's, DRAPER-CHT-5115
- 133. Josh Chatwin Employment Records, Jiffy Lube, DRAPER-CHT-5116-5126
- 134. Josh Chatwin Employment Records, Laserstop, DRAPER-CHT-5127-5128
- 135. Josh Chatwin Employment Records, O'Curranee, DRAPER-CHT-5129-5171
- 136. Photographs of Sgt. Harris' Truck, DRAPER-CHT-5193-5207
- 137. Trevor Petersen 1099-MISC, DRAPER-CHT-5209

- 138. Trevor Petersen Earnings Summary, DRAPER-CHT-5210
- 139. Private Ops Invoices, DRAPER-CHT-5211-5214
- 140. 9/23/2015 Trevor Petersen Application, DRAPER-CHT-5215-5224
- 141. Trevor Petersen Honesty Pledge, DRAPER-CHT-5225
- 142. Trevor Petersen Independent Contractor Agreement, DRAPER-CHT-5228
- 143. 9/25/15 Process Service Certification Test, DRAPER-CHT-5241-5242
- 144. 4/7/16 Letter from Court OPS to BCI, DRAPER-CHT-5250
- 145. 6/8/11 Hearing Graphs, DRAPER-CHT-5255-5257
- 146. 6/11/2016 Letter from Alan Goldman, DRAPER-CHT-5258-5260
- 147. Photographs of the scene, DRAPER-CHT-5261-5281
- 148. Josh Chatwin Renaissance Ranch Records, DRAPER-CHT-5282-5479
- 149. 7/17/15 Police Report regarding Kirk Torgensen, DRAPER-CHT-5491-5497
- 150. Private Ops invoice, DRAPER-CHT-5498
- 151. Blank Letter of Engagement and Understanding, DRAPER-CHT-5499-5501
- 152. Blank Acknowledgement and Agreement, DRAPER-CHT-5502
- 153. Court Docket regarding Kirk Torgensen, DRAPER-CHT-5516-5518
- 154. Kirk Torgensen Arrest Mugshots, DRAPER-CHT-5519-5520
- 155. Signed Plea Information, Kirk Torgensen, DRAPER-CHT-5521
- 156. Jail Release Agreement, Kirk Torgensen, DRAPER-CHT-5522-5523
- 157. Information, DRAPER-CHT-5524-5527
- 158. Minutes regarding Change of Plea, Plea in Abeyance, DRAPER-CHT-5528

- 159. News Article involving Kirk Torgensen, DRAPER-CHT-5529-5530
- 160. News Article involving Kirk Torgensen, DRAPER-CHT-5531-5534
- 161. News Article involving Kirk Torgensen, DRAPER-CHT-5535-5538
- 162. News Article involving Kirk Torgensen, DRAPER-CHT-5539-5543
- 163. Cyber Ops Scene Inspection Photos, DRAPER-CHT-5544-5615
- 164. United Fire Authority Records, DRAPER-CHT-5620-5625
- 165. Josh Chatwin Valley Mental Health Records, DRAPER-CHT-5630-5651
- 166. Josh Chatwin medical records from Dr. Reichert, DRAPER-CHT-5655-5674
- 167. Josh Chatwin brain scan images, DRAPER-CHT-5675
- 168. 5/20/2010 Discharge Instructions, Chatwin-002
- 169. Any exhibits disclosed by Plaintiff.
- 170. Any documents used as deposition exhibits.

Defendants note that their Motion for Partial Summary Judgment is currently pending before the Court. Therefore, Defendants reserve the right to supplement or amend these disclosures as necessary to conform their trial strategy in light of any future orders from the Court and to meet their disclosure obligations under Rule 26.

#### **OBJECTIONS TO PLAINTIFF'S PRETRIAL DISCLOSURES**

Pursuant to Rule 26(a)(3)(B) of the Federal Rules of Civil Procedure, Defendants object to Plaintiff's Pretrial Disclosures as follows:

#### **Witnesses**

Defendants object to the use of the deposition of Trevor Peterson as proposed in Plaintiff's Pretrial Disclosures. Plaintiff has not designated which portions of the deposition he intends to use if Mr. Peterson is unavailable to offer live testimony. If Plaintiff does not intend to play the entire deposition for the jury, Plaintiff must disclose the specific lines of testimony he intends to use so that Defendant may make counter-designations if necessary.

### **Exhibits**

Defendants may object to the admissibility of the exhibits Plaintiff intends to offer at trial as follows:

1. Medical Records of Joshua Chatwin (Chatwin-003 – 107; 109 – 116; 117 – 133): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be; this exhibit contains medical records from multiple separate medical providers, which should be separated into individual exhibits for purposes of trial.
2. Preliminary Hearing Transcript (Chatwin-134 – 230): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that the exhibit is what it claims to be.
3. Photographs (Chatwin-231 – 245): Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that each of the photographs is

what it claims to be; this exhibit contains numerous photographs, which should be separated into individual exhibits for purposes of trial.

4. Portions of Draper City Police Department Policies and Procedures (Chatwin-385 – 398): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be.

5. Draper City Police Department Records (DRAPER-CHT-63 – 88, 90 – 4059): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be; this exhibit contains multiple separate documents, including one lone page of hearing testimony, which should be separated into individual exhibits for purposes of trial.

6. Photographs of the scene (DRAPER-CHT-4155 – 4166): Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that each of the photographs is what it claims to be; this exhibit contains numerous photographs, which should be separated into individual exhibits for purposes of trial.

7. Photographs (DRAPER-CHT-4764 – 4770): Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that each of the photographs is what it claims to be; this exhibit contains numerous photographs, which should be separated into individual exhibits for purposes of trial.

Defendants may object to the admissibility of the exhibits Plaintiff may rely upon at trial as follows:

1. Criminal Information/Discovery, including witness statements (Chatwin-246 – 277; DRAPER-CHT-4060 – 4114): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be; this exhibit contains multiple separate documents written by different authors, including pleadings and witness statements, which should be separated into individual exhibits for purposes of trial.

2. DPD Training Assessment, January 1, 2015, to December 31, 2016 (DRAPER-CHT-4115 – 4154): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be; this exhibit contains multiple separate documents which should be separated into individual exhibits for purposes of trial.

3. Third District Court Docket, West Jordan Department, State of Utah v. Joshua Scott Chatwin, Case No. 101401517 (DRAPER-CHT-4839 – 4854): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be.



4. Employment records at time of incident (DRAPER-CHT-5117 – 5126): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be.

DATED this 29th day of November, 2016.

**DURHAM JONES & PINEGAR, P.C.**

/s/ R. Blake Hamilton

R. Blake Hamilton

Ashley M. Gregson

ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served this 29th day of November, 2016, via electronic filing upon the following:

Lisa A. Marcy  
CLYDE SNOW & SESSIONS  
One Utah Center, Thirteenth Floor  
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/s/ Sarah Peck  
Secretary